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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,711	02/10/2004	Alfred Stirnemann	36442	3336

116 7590 09/12/2007  
PEARNE & GORDON LLP  
1801 EAST 9TH STREET  
SUITE 1200  
CLEVELAND, OH 44114-3108

EXAMINER
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LEE, PING

ART UNIT	PAPER NUMBER
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2615

MAIL DATE	DELIVERY MODE
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09/12/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/775,711

Applicant(s)

STIRNEMANN ET AL.

Examiner

Ping Lee

Art Unit

2615

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 27 May 2004 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.

- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Drawings***

1. The drawings are objected to because some brief descriptions in Figs. 1a and 1 filed on 5/27/04 do not match with the terms in the specification. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1 are rejected under 35 U.S.C. 102(b) as being anticipated by Shennib et al (hereafter Shennib) (US006914994B1).

Regarding claim 1, Shennib discloses a hearing device system with at least one hearing device (10) having an acoustical/electrical input converter arrangement (20), an electrical/mechanical output converter arrangement (21), a digital signal processing unit (51 and 54) operationally interconnected between an output of said input converter arrangement and an input of said output converter arrangement, said device being adapted to a specific ear of a specific individual, said signal processing unit (51 and 54) being controllable in at least two operating modes (ON, sleep and so on), a first mode being realized so that the device in said ear of said individual is substantially transparent (sleep mode), characterized by said processing unit being controlled in said first mode by a dedicated programme module (62) independent of any further programme module (such as 61 and so on) for any further operating mode or being controlled by a programme operating in said first mode controlled by a dedicated set of parameters, said set being independent from any further set of parameters for any further mode.

Regarding claim 2, Shennib further shows a weighting unit (52) controllably weighting a relative controlling effect of said dedicated programme module (62) or of said dedicated set of parameters on one hand with respect to said further module or further set of parameters on the other hand (col. 4, lines 61-63).

Regarding claim 3, Shennib shows that digital signal processing unit controls said weighting unit (the digital controller 51 controls the power controller which controls the bias current).

Regarding claim 4, Shennib shows that said weighting unit is controlled to steadily vary said effect.

Regarding claim 5, Shennib discloses a method for manufacturing a hearing device system with at least one hearing device(10) adapted at least to a specific ear of a specific individual and having an input acoustical/electrical converter arrangement (20), an output electrical/mechanical converter arrangement (21), a digital signal processing unit (51 and 54) operationally interconnected between an output of said input converter arrangement and an input of said output converter arrangement, wherein the signal processing unit (51 and 54) is controlled by a programme defining signal transmission from said acoustical input signal to said input converter arrangement to the mechanical output of said output converter arrangement in at least two different modes (sleep mode, ON and so on), one thereof defining said signal transmission for transparent transmission mode (sleep mode), characterized by applying a first programme module (62) to control said signal processing unit in said transparent mode and providing at least one second programme module (61) independent from said first programme module (62) for controlling said processing unit (51 and 54) in any further mode or providing a first set of parameters controlling said programme in said transparent mode and being independent from at least one second set of parameters controlling said processing unit in any further mode.


Regarding claim 6, Shennib shows that programming said one programming module at least substantially independent from said second programme module (the system operates differently when it is sleep mode or ON mode).

4. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ping Lee whose telephone number is 571-272-7522.

The examiner can normally be reached on Monday, Wednesday and Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vivian C. Chin can be reached on 571-272-7848. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
Ping Lee  
Primary Examiner  
Art Unit 2615

pwl